

October 13, 2003

Public Participation in Permitting Processes

State Advisory Board to the Virginia Air Pollution Control Board

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Executive Summary:

The Department of Environmental Quality and the State Air Pollution Control Board tasked the State Advisory Board on Air Pollution with reviewing and making recommendations for revising current practices with regard to public participation when permitting new sources. The Public Participation Workgroup was formed in an attempt to make these recommendations with the goal of fostering a better understanding among Virginia citizens on air quality issues and the permitting of new sources in general.

The Public Participation Working Group considered options for improving public participation from the Air Resources Impact Working Group. In addition, the current public participation process used in air permitting by Virginia and public participation tools in other states were reviewed to provide further recommendations. A number of non-government organizations were also asked for comments and suggestions to improve the public participation aspects of the permitting process. The comments were also considered as recommendations were developed.

Based on the review of information from these sources, the Public Participation Working Group makes a number of recommendations. The Working Group did observe that the suggested language in the templates of the public notices for various types of permits is complicated and likely difficult for the public to understand. The use of legal notices in newspapers may not be reaching the intended audiences. In addition, the Working Group believes that use of the DEQ website has the potential to be a powerful tool for communicating information to the public. To reflect this potential, the Working Group is recommending several ways to better utilize the DEQ website to communicate permit activity and to provide guidance about such activity. However, because not all members of the public currently have access to and/or the knowledge of how to access and use the site, the internet cannot be the only communication tool. Finally, the past practice for DEQ to hold its informational briefings prior to public hearings concerning proposed permits has been identified as an area for potential improvement in the public participation process. DEQ has addressed this issue during the term of this working group by policy. Because of the technical nature and complexity of issues often communicated during public hearings and informational briefings, recommendations are also included to address how information is communicated to the public during these sessions.

Introduction

The Department of Environmental Quality and the State Air Pollution Control Board tasked the State Advisory Board on Air Pollution with reviewing and making recommendations for revising current practices with regard to public participation when permitting new sources. The Public Participation Workgroup was formed in an attempt to make these recommendations with the goal of fostering a better understanding among Virginia citizens on air quality issues and the permitting of new sources in general.

Mission Statement

To provide the Department with recommendations on public information and education efforts for permitting processes in an attempt to anticipate and answer the concerns of Virginia citizens.

Background

In response to legislation introduced in the 2002 General Assembly session, the DEQ convened the Air Resources Impact Workgroup. The Workgroup was asked to develop options for improving air monitoring and for assessing and addressing combined impacts on air quality from power plants and other permitted facilities. In its final report, released in November of 2002, a list of options was presented. Certain of these options provided suggestions for improving ongoing efforts of education and all seemed to reference education on the permitting of new sources as a primary goal. Below are summaries of key issues from the report that pertain to public participation.

Need For Education of the Concerned Public on Complex Air Quality Issues.

Air quality issues involve highly complex regulations and technology that require understanding of numerous acronyms, numerous federal and state standards, numerous programs to implement those standards, and numerous ins-and-outs of the state permitting program. Consideration should be given to provide information describing the various aspects of air monitoring, modeling and permitting in Virginia in language easy to understand by the public.

Promote General and Ongoing Education.

Information on the technical aspects of air quality permitting needs to be a continuing public education process. Mechanisms for general public education and information include the web, newspapers, and other media. All parties should use all means possible to improve public education.

Simplified language (plain English) should be used when dealing with the public. The measurements of the presence of air pollution should be communicated in plain English so that the public (including local governments) can understand the implications and make informed decisions.

Education During the Permitting Process

Another option explored by the Air Resources Working Group was the separation of agency public information meetings from agency public comment meetings, to provide citizens with sufficient time to digest the information provided before being asked to provide comment.

Based on some of the options suggested by the Air Resources Impact Working Group, the SAB chose public participation in air permitting as an area of focus for 2003. The comments described above from the Air Resources Impact Working Group were considered as the SAB's Public Participation Subcommittee developed recommendations. In addition, the current public participation process used in air permitting by Virginia and public participation tools in other states were reviewed to provide further recommendations. A number of non-government organizations were also asked for comments and suggestions to improve the public participation aspects of the permitting process.

Existing Public Participation Requirements for Air Quality Permits in Virginia

Overview

Public participation is an important part of the current air quality permitting process. Virginia air quality regulations require that the public be notified of Title V, nonattainment NSR, PSD and State Operating Permits activity and be provided with an opportunity to review the documents and comment. These different types of permits handle public hearings and informational meetings differently depending upon State and Federal requirements. With Virginia minor new source or minor modification requirements, neither a public notice or comment period is typically required. However, in some cases a public notice and hearing will be held. If a member of the public requests a public hearing for a minor source permitting action, then a separate public hearing and notice may be required. In addition, if the minor source is also subject to public comment under a Federal regulation such as NSPS, then the applicable requirements will be implemented. The information below describes the requirements in more detail.

Current Requirements

Title V Operating Permit Public Participation

Proposed permits for initial permit issuance, significant modifications and renewals of Title V Operating permits are subject to a public comment period of 30 days. The public is notified of the public comment period by an advertisement in a newspaper of general circulation in the area where the source is located and through a notice to interested parties. During this time the permit application and proposed permit or permit modification is available for public review at the DEQ regional office.

If written request for a public hearing is made during the 30- day comment period, the DEQ determines whether to grant or deny the request for public hearing. If a hearing is held, a public notification will be made as it was in the original notification and the hearing held within 30-60 days after the hearing notification. An applicant can also request a public hearing or the DEQ can elect to hold a hearing if the determination is made that there is significant public interest or disputed air quality issues.

When the public notice is made the following requirements must be included in at least one newspaper of general circulation in the affected air quality control region:

- The source name, location and type;
- The pollutants and the total quantity of each which the applicant estimates will be emitted, and a brief statement of the air quality impact of such pollutants;
- The control technology proposed to be used at the time of the publication of the notice; and
- The name and telephone number of a contact person, employed by the applicant, who can answer questions about the proposed source.

State Operating Permit Public Participation

The State Operating Permit public participation requirements cover permit applications for permits containing provisions that are necessary for the permit to be federally enforceable. Similar to the Title V permitting process, these permitting actions are subject to a public comment period of at least 30 days. The public is notified by notice in a newspaper in the area and the information is made available for public inspection.

If written request for a public hearing is made during the 30- day comment period, the DEQ determines whether to grant or deny the request for public hearing. If a hearing is held, a public notification similar to the initial notification will be made and the hearing held within 30-60 days after the hearing notification.

An applicant can also request a public hearing or the DEQ can elect to hold a hearing if the determination is made that there is significant public interest or disputed air quality issues.

The information required in the public notice is not specified.

Prevention of Significant Deterioration Permits Public Participation

Once the DEQ reviews the application and notifies the applicant of the status of the application, the public notification process begins. The applicant is required to conduct a public informational briefing between 30 and 60 days after publishing a DEQ-approved notice of the briefing. The notice must be published in a local paper of general circulation in the affected air quality control region within 30 days of the date that the applicant received the initial letter of determination.

The notice from the applicant is approvable as long as it contains the following elements:

- Name of the source.
- Location of the source.
- Type of source.
- Date and time of the briefing.
- Place of the briefing.
- Enough information concerning the purpose of the briefing such that the public may make an informed decision on whether or not to attend.

A template with the language recommended by DEQ for use by applicants is in Appendix 1.

Once the preliminary determination on the permit application is made, a second public participation phase begins when the permit has been drafted. The notice must be published in a newspaper of general circulation in the air quality control region in which the source is located. If there are any "localities particularly affected" (see Guidance Memo 99-1004) by this major new source or major modification, then the notice must be published in a newspaper of general circulation in the localities particularly affected. The DEQ public informational briefing is required by procedure for PSD permits and is required by regulation to be held no later than the day before the public comment period begins. Since the Public Participation Working Group began work on this project, DEQ has begun to have the public briefing in advance of the public hearing. The public comment/public hearing notice is required to be published at least 30 days prior to the date of the hearing. But because the notice of the DEQ public briefing is included in this notice, this notice must be published at least 30 days prior to the

briefing date. Since the briefing can occur no later than the day before the public comment period begins, then this notice must be published at least 60 days prior to the public hearing date.

The required elements for this PSD combined notice are:

- A description of the application (name, location and type of source; type of application).
- The Department's preliminary determination on the application.
- The degree of increment consumption expected.
- The opportunity for written comments (duration of comment period, where and how to submit comments).
- A statement of local impact (specific pollutants, annual emission rate of each pollutant, and the type and quantity of fuels to be used).
- The opportunity for comment at a public hearing (date, time and location of the hearing, and a description of any procedural requirements that may affect the presentation of comments).
- The availability of the preliminary determination and supporting documents for public inspection (dates and times, location, contact persons and means of contacting them).
- If DEQ disagrees with a FLM adverse impact analysis, a statement of the Department's explanation or information on where such explanation may be obtained.

All comments received during the public process are available for review. The applicant has an opportunity to respond to any comments within 10 days of the close of the public comment period.

The boilerplate language for the notice of the public briefing and hearing is included in Appendix 1.

Nonattainment Permit Public Participation Process

The applicant is required to conduct a public informational briefing between 30 and 60 days after publishing a DEQ-approved notice of the briefing. The notice must be published in a local paper of general circulation in the affected air quality control region within 30 days of the date that the applicant received the Initial Letter of Determination from DEQ about the status of the permit application.

This notice has the required information, but a notice written by the applicant is approvable as long as it contains the following elements:

- Name of the source (NA regulatory requirement).
- Location of the source (NA regulatory requirement).
- Type of source (NA regulatory requirement).
- Time (and date) of the briefing (NA regulatory requirement).
- Place of the briefing (NA regulatory requirement).
- Enough information concerning the content of the briefing such that the public may make an informed decision on whether or not to attend (DEQ requirement).

The suggested language for use in the public notice for major source or major modification permit applications in a nonattainment area is included in Appendix 1.

Prior to the permitting decision by the DEQ the permit application is subject to a public comment period of at least 30 days. A public hearing is also held with notice. The notice must be published in a newspaper of general circulation in the air quality control region in which the source is located. If there are any “localities particularly affected” by this major new source or major modification, then the notice must be published in a newspaper of general circulation in the localities particularly affected.

If there are any “localities particularly affected” by this major new source or major modification, then a statement of the local impact is required, which must include, as a minimum, information on the quantity of fuels to be used and quantities of each pollutant emitted. If there are significant increases in pollutants for which the area is in attainment, then the required elements from the PSD notices must also be included. The DEQ public informational briefing is required by procedure for Non-attainment permits and is required by regulation to be held no later than the day before the public comment period begins.

The public comment/public hearing notice is required to be published at least 30 days prior to the date of the hearing. But because the notice of the DEQ public briefing is included in this notice, this notice must be published at least 30 days prior to the briefing date. Since the briefing can occur no later than the day before the public comment period begins, then this notice must be published at least 60 days prior to the public hearing date.

A DEQ informational meeting is also required by procedure. This meeting may be held days before the public hearing, but should be held at least 30 minutes

before the public hearing. If there is wide public interest (as may be demonstrated during the earlier DEQ public informational briefing), then the informational meeting shall be held at least a week after the public hearing notice and at least a week before the public hearing. Since the start of this public participation project by the Working Group, DEQ has begun to have the public briefing in advance of the public hearing.

The required elements for this Non-attainment combined notice are:

- A description of the application (name, location and type of source; type of application).
- The Department's preliminary determination on the application.
- The opportunity for written comments (duration of comment period, where and how to submit comments).
- The opportunity for comment at a public hearing (date, time and location of the hearing, and a description of any procedural requirements that may affect the presentation of comments).
- The availability of the preliminary determination and supporting documents for public inspection (dates and times, location, contact persons and means of contacting them).
- If DEQ disagrees with a FLM adverse impact analysis, a statement of the Department's explanation or information on where such explanation may be obtained.

The suggested language to be used in the Nonattainment permit notice for public comment and meeting is included in Appendix 1:

Permits for Major Sources or Major Modifications Public Participation

Some sources that apply for a minor NSR permit are classified as major sources or major modifications but their potential emissions are below PSD or Nonattainment levels (sometimes called state majors). The applicant for a permit for a major stationary source or a major modification is required to notify the public of the application by placing a notice approved by the Department in at least one newspaper of general circulation in the affected air quality control region no later than 15 days after receiving the initial determination notification.

The applicant may use the language suggested by DEQ or write alternative language and have it approved by the Department.

The required elements for this notice are:

- Source name, location and type;

- Pollutants emitted, annual emissions of each pollutant, and a statement of their impact;
- Proposed control technology; and
- The name and telephone number of the applicant's contact person who can answer questions about the proposed source.

The template suggested for use for applicants is provided in Appendix 1.

A public hearing is required if the source is subject to a case-by-case maximum achievable control technology determination, has the potential for public interest or for sources whose design exceeds the stack height allowed by good engineering practice. If a public hearing is legitimately requested during the comment period, then this separate public hearing notice may be required.

If a public hearing notice is required for a major source subject to the requirements of Virginia Code §10.1-1307.01 (a new major source, a major modification of a state major source resulting in an increase of 100 tons or more of any criteria pollutant. The trigger for a state major source differs in the Northern Virginia nonattainment area. A major modification of a PSD or Non-attainment major source, or a change to a source of HAP that allows emission of 10 tons or more of any one HAP, or 25 tons or more of a combination of HAPs, then (1) the notice must be published in a paper of general circulation in any locality particularly affected, (2) the notice must contain a statement of the impact on the locality particularly affected (at a minimum, the total emissions of each pollutant and the amount of each fuel combusted), the notice must specify that comments will be accepted for 15 days after the date of the public hearing, and (4) the notice must be mailed to the chief elected officer, the chief administrative officer of any locality particularly affected, and planning district commission for those localities.

Although according to the Minor NSR manual, Chapter 12, paragraph F(2), information required in the applicant's public notification (emissions and their impact, proposed control technology, and contact information for the applicant) "should be included", it is not required. If it is desired, appropriate wording may be used from the applicant's notice. Suggested language for this notice is included in Appendix 1.

Review of States' Web Pages

The Work Group undertook an examination of public participation, outreach and education efforts in other states. Our research was based exclusively on a review of state agency internet sites. Many states follow public participation procedures comparable to those used in Virginia. We found that a majority of states:

- Post draft permits or public notices on the internet
- Publicize public comment periods in local newspapers
- Accept comments during a 15 to 45 day comment period
- Hold public hearings if warranted or requested

In addition to these basic public participation elements some states have developed more detailed guidance and/or interactive web sites. At least one state, Alaska, appears to update weekly the status of all pending applications. A few states have established an ombudsman to act as a liaison between the public and the agency.

Overview of Comments from Non-Government Organizations

A number of non-government organizations were asked to provide suggested improvements to the Public Participation Work Group concerning public participation in the permitting process. Some comments received indicated that the general public is not necessarily an expert on air quality issues and often needs guidance about pollution issues. It was suggested that DEQ should take a greater role in the education of the public on general air quality issues. When informational briefings and public hearings are held, it is difficult for the general public to understand the regulatory jargon and technical discussion. In addition, information is not readily available about health issues associated with air pollution.

Conclusions and Recommendations

Based on the review of options related to public participation from the Air Resources Impact Working Group, current Virginia DEQ regulations and policies and practices and tools from other states and suggestions from non-government organizations, the Public Participation Working Group makes a number of observations. After reviewing the various templates for public notices, the Working Group noted that the suggested language in the templates of the public notices for various types of permits is complicated and likely difficult for the public to understand. The use of legal notices in newspapers may not be reaching the intended audiences. In addition, the Working Group believes that use of the DEQ website has the potential to be a powerful tool for communicating information to the public. To reflect this potential, the Working Group is recommending several ways to better utilize the DEQ website to communicate permit activity and to provide guidance about such activity. However, because not all members of the public currently have access to and/or the knowledge of how to access and use the site, the internet cannot be the only communication tool. Finally, the past practice for DEQ to hold its informational briefings prior to public hearings concerning proposed permits has been identified as an area for potential improvement in the public participation process. DEQ has addressed this issue during the term of this working group by policy.

The Public Participation Working group makes the following recommendations:

- DEQ should assess the effectiveness of the current means of communicating permit information, especially the use of newspaper notices in the Legal Classified section of local newspapers. Public input on potential improvements to the web site information should be obtained.
- DEQ currently has a permit tracking table on the web page for proposed power plant applications in the state. Similar information for major source, major modification, PSD and nonattainment new source review permits should be added to the website. The status of the permit applications for sources should be updated at least monthly.
- Public notices are currently provided on the DEQ website. The descriptions of the notices should be drafted to more clearly communicate what type of activity is the subject of the notice. The description of the public notice should be written without the use of acronyms and jargon. In addition, the notices of regulatory action should be provided separately from the permit public notices.
- Modify the DEQ home page so a link near the top of the list is titled “Public Participation.” This section of the web site can then expand on the current public information tab on the current site. A good example of such site can be found on the Ohio Environmental Protection Agency home web page <http://www.epa.state.oh.us/>. This section of the site clearly states their mission and vision regarding public participation. It also addresses other items such as district offices, Public Interest Center, Public Information Sessions and Public Hearings, Public Advisory Groups and Other Opportunities.
- Consider developing a Public Participation Guide. This can be located within the “Public Participation” link. California has developed such a guide titled “A Public Participation Guide to Air Quality Decision Making in California” http://www.arb.ca.gov/ch/public_participation_guide.pdf which provides the basic tools and information needed to understand and participate in the air pollution policy, planning, permitting, and regulatory decision-making processes in California. The guide includes:
 - A short overview of the government agencies responsible for controlling air pollution;
 - Agency contact information;
 - Directions on how to resolve air pollution complaints;
 - Tips on how to find information about local sources of air pollution; and

- Steps you can take to get involved in air quality issues in your community.

The California version is a very lengthy (40 pages) document. A more concise version could be a good start to educating the public in Virginia regarding public participation procedures.

- The Virginia website provides a link to the EPA website under “links”. This site provides information about health issues associated with air pollution. A member of the general public may not know that such information is available. DEQ should consider providing a tab on the home page that directly links to the available health information.
- Suggest that DEQ add the date that a regulation chapter was last updated on regulations provided on the website so users will know if they have the most current version of the regulations.
- Consider options for providing agency led informational briefings with a greater time period between the briefing and the public hearing. When informational briefings and public hearings are held, effort should be made to create a comfortable atmosphere for input from the public. In addition, language understood by a layperson should be used to communicate the issues. When appropriate, analogies should be used to relate the pollution from the activity being permitting to activities the general public can understand.
- Virginia hazardous air pollutant rules use an ACGIH threshold limit value book. If not already available, regional offices should have a copy available for members of the public to use in the regional office to better understand what standards apply to a particular source.
- DEQ should explore options for providing notice when portable sources of air pollution relocate. This would require a regulatory change.

APPENDIX 1: Virginia DEQ Templates for Public Notices

(Wording in hard brackets [] is optional or situation driven and wording in soft brackets{} indicates what missing information is to inserted)

A. Public notice of public informational briefing for a Prevention of Significant Deterioration (PSD) permit

PUBLIC NOTICE AIR PERMIT APPLICATION PUBLIC INFORMATIONAL BRIEFING

{Company name} has submitted an application to the Virginia Department of Environmental Quality (DEQ), {name of regional office} Regional Office for a PSD New Source Review permit to [construct][modify] and operate {facility name}, a major stationary source, pursuant to 9 VAC 5 Chapter 80, Article 8. of the Virginia Regulations for the Control and Abatement of Air Pollution. The proposed {facility type} would be located at {facility location}, {facility county or city}, Virginia.

{Company name} will provide an informational briefing for the public about the proposed project. The briefing will be held on {date} at {time} in {meeting room, building and address}, Virginia. At the briefing, {company name} will inform the public about the operation and potential air quality impact of the proposed project, including information concerning the quantity of each pollutant that will be emitted and the control technologies that are proposed to be used. Additionally, representatives from the Department of Environmental Quality will attend the informational briefing and provide information concerning the permit application review process.

Information on the proposed facility may be obtained by contacting {name of company contact person} at {phone number of company contact person}.

B. Public notice template for PSD permit informational briefing and public hearing

PUBLIC NOTICE PROPOSED AIR PERMIT PUBLIC BRIEFING PUBLIC COMMENT PERIOD PUBLIC HEARING

The Virginia Department of Environmental Quality (DEQ), {name of regional office} Regional Office has received an application for a PSD New Source

Review permit from {company name} to [construct][modify] and operate {facility name}, a major stationary source, pursuant to 9 VAC 5 Chapter 80, Article 8 of the Virginia Regulations for the Control and Abatement of Air Pollution. The proposed {facility type} would be located at {facility location}, {facility county or city}, Virginia.

The Department staff has completed its review of the permit application and is ready to receive and consider public comments on air quality issues associated with the proposed facility. The proposed permit would allow the combustion of {list the amount of each fuel authorized by the permit} at the proposed facility. The maximum annual emissions of air pollutants from the proposed facility would be {number of tons per year, air pollutant; number of tons per year, air pollutant; etc.}. [The control technology that is proposed to mitigate the impact of these pollutants on the ambient air quality is {description of the proposed controls}]. [The resulting impact on the local air quality due to the emission of these pollutants is predicted to be {description of impact}.] The proposed facility will consume {amount of increment consumed} tons of the remaining {amount of increment remaining} increment for the area. The Department's preliminary determination is that the proposed project meets the standards for issuing the air permit in accordance with 9 VAC 5-80-1790 of the Regulations. [Since a Federal Land Manager has issued an adverse impact analysis concerning this application, a copy of that analysis and an explanation of the Department's disagreement with that analysis are included with the permit package available for public examination.]

The public may examine the application, the preliminary review and analysis of the application, and the preliminary decision by the Department on the application at the DEQ {name of regional office} Regional Office on each business day between the hours of 8:30 a.m. and 4:30 p.m., from the day after the public briefing until 15 days after the public hearing, which is {date 15 days after the public hearing}. Additional information and copies of relevant documents may be obtained from the regional office by contacting {name of regional office contact} at {regional office contact phone number}.

The Department will conduct a formal public briefing for the purpose of informing the public of the proposed project and the Department's preliminary determination on the application. The briefing will be held on {date of informational briefing} at {meeting room, building and address}, Virginia. The briefing will begin at promptly at {time of briefing}. Following the presentation, Department staff will answer questions related to the air quality issues affecting this project until {time briefing period will close}. Information exchanged during the briefing will not be part of the public record.

The Department will also conduct a public hearing to receive written and oral comments concerning the application. The purpose of the public hearing is to obtain input that may not have been considered during the review process. This

hearing will be held on {date} at {time} in {meeting room, building and address}, Virginia. [Persons desiring to make a statement at the hearing are requested to sign up on a sheet to be provided {number of minutes} minutes before the public briefing and are requested to furnish the office two copies of their testimony, along with the originals of any supporting documents or exhibits. Individuals may sign up only for themselves. The amount of time allowed for each statement will be determined by the hearing officer, but is not normally more than three minutes.]

Written comments may be submitted in lieu of oral comments at the public hearing, or may be mailed to the DEQ {name of regional office} Regional Office. Written comments must be received by the DEQ {name of regional office} Regional Office no later than the close of business on {date 15 days after public hearing}. Only those comments received within this period will be considered. E-mailed comments are also acceptable, provided they include the name, address, and phone number of the writer and are timely.

The address and phone number of this office are {address and city of regional office}, Virginia; {phone number of regional office}; the e-mail address is {regional permit writer email address}. All testimony, exhibits, and comments received are public records.

C. Public notice for nonattainment permit public informational briefing

PUBLIC NOTICE AIR PERMIT APPLICATION PUBLIC INFORMATIONAL BRIEFING

{Company name} has submitted an application to the Virginia Department of Environmental Quality (DEQ), {name of regional office} Regional Office for a Non-attainment New Source Review permit to [construct][modify] and operate {facility name}, a major stationary source, pursuant to 9 VAC 5 Chapter 80, Article 9 of the Virginia Regulations for the Control and Abatement of Air Pollution. The proposed {facility type} would be located at {facility location}, {facility county or city}, Virginia.

{Company name} will provide an informational briefing for the public about the proposed project. The briefing will be held on {date} at {time} in {meeting room, building and address}, Virginia. At the briefing, {company name} will inform the public about the operation and potential air quality impact of the proposed project, including information concerning the quantity of each pollutant that will be emitted and the control technologies that are proposed to be used. Additionally, representatives from the Department of Environmental Quality will attend the informational briefing and provide information concerning the permit application review process.

Information on the proposed facility may be obtained by contacting {name of company contact person} at {phone number of company contact person}.

D. Public notice for nonattainment permit informational briefing and public hearing

**PUBLIC NOTICE
PROPOSED AIR PERMIT
PUBLIC BRIEFING
PUBLIC COMMENT PERIOD
PUBLIC HEARING**

The Virginia Department of Environmental Quality (DEQ), {name of regional office} Regional Office has received an application for a Non-attainment New Source Review permit from {company name} to [construct][modify] and operate {facility name}, a major stationary source, pursuant to 9 VAC 5 Chapter 80, Article 9 of the Virginia Regulations for the Control and Abatement of Air Pollution. The proposed {facility type} would be located at {facility location}, {facility county or city}, Virginia.

The Department staff has completed its review of the permit application and is ready to receive and consider public comments on air quality issues associated with the proposed facility. [The proposed permit would allow the combustion of {list the amount of each fuel authorized by the permit} at the proposed facility.] [The maximum annual emissions of air pollutants from the proposed facility would be {number of tons per year, air pollutant; number of tons per year, air pollutant; etc.}.] [The resulting impact on the local air quality due to the emission of these pollutants is predicted to be {description of impact}.] [{Name of company} will purchase {number of tons of offsets} tons of creditable emission reductions in order to offset the proposed increase in {pollutant} emissions.] The Department's preliminary determination is that the proposed project meets the standards for issuing the air permit. [Since a Federal Land Manager has issued an adverse impact analysis concerning the PSD portion of this application, a copy of that analysis and an explanation of the Department's disagreement with that analysis are included with the permit package available for public examination.]

The public may examine the application, the preliminary review and analysis of the application, and the preliminary decision by the Department on the application at the DEQ {name of regional office} Regional Office on each business day between the hours of 8:30 a.m. and 4:30 p.m., from the day after the public briefing until 15 days after the public hearing, which is {date 15 days after the public hearing}. Additional information and copies of relevant documents may be obtained from the regional office by contacting {name of regional office contact} at {regional office contact phone number}.

The Department will conduct a formal public briefing for the purpose of informing the public of the proposed project and the Department's preliminary determination on the application. The briefing will be held on {date of informational briefing} at {meeting room, building and address}, Virginia. The briefing will begin at promptly at {time of briefing}. Following the presentation, Department staff will answer questions related to the air quality issues affecting this project until {time briefing period will close}. Information exchanged during the briefing will not be part of the public record.

The Department will also conduct a public hearing to receive written and oral comments concerning the application. This hearing will be held on {date} at {time} in {meeting room, building and address}, Virginia. The purpose of the public hearing is to obtain input that may not have been considered during the review process. [Persons desiring to make a statement at the hearing are requested to sign up on a sheet to be provided {number of minutes} minutes before the public briefing and are requested to furnish the office two copies of their testimony, along with the originals of any supporting documents or exhibits. Individuals may sign up only for themselves. The amount of time allowed for each statement will be determined by the hearing officer, but is not normally more than three minutes.]

In addition, the Department will conduct an informal briefing {number of minutes} minutes prior to the public hearing. This briefing will explain the activity for which the permit is sought and the Department staff's rationale for its preliminary determination. Questions are welcome and will be answered until the time that the public hearing is scheduled to begin.

Written comments may be submitted in lieu of oral comments at the public hearing, or may be mailed to the {name of regional office} Regional Office. Written comments must be received by the DEQ {name of regional office} Regional Office no later than the close of business on {date 15 days after public hearing}. Only those comments received within this period will be considered. E-mailed comments are also acceptable, provided they include the name, address, and phone number of the writer and are timely.

The address and phone number of this office are {address and city of regional office}, Virginia; {phone number of regional office}; the e-mail address is {regional permit writer email address}. All testimony, exhibits, and comments received are public records.

E. Public notice for major source or major modification permit application

**PUBLIC NOTICE
AIR PERMIT APPLICATION**

{Name of company} has submitted an application to the Virginia Department of Environmental Quality (DEQ), {name of regional office} Regional Office for a New Source Review permit to [construct][modify] and operate {facility name}, a major stationary source, pursuant to 9 VAC 5 Chapter 80, Article 6 of the Virginia Regulations for the Control and Abatement of Air Pollution. The proposed {facility type} would be located at {facility location}, {facility county or city}, Virginia.

The maximum annual emissions of air pollutants from the proposed facility would be {number of tons per year, air pollutant; number of tons per year, air pollutant; etc.}. The control technology that is proposed to mitigate the impact of these pollutants on the ambient air quality is {description of the proposed controls}. The resulting impact on the local air quality due to the emission of these pollutants is predicted to be {description of impact}.

Information on the proposed facility may be obtained by contacting {name of company contact person} at {phone number of company contact person}.

F. Public notice for public hearing for a proposed permit for a major source or major modification

**PUBLIC NOTICE
PROPOSED AIR PERMIT
PUBLIC COMMENT PERIOD
PUBLIC HEARING**

The Virginia Department of Environmental Quality (DEQ), {name of regional office} Regional Office has received an application for a New Source Review permit from {company name} to [construct][modify] and operate {facility name}, a [major] stationary source, pursuant to 9 VAC 5 Chapter 80, Article 6 of the Virginia Regulations for the Control and Abatement of Air Pollution. The proposed {facility type} would be located at {facility location}, {facility county or city}, Virginia.

The Department staff has completed its review of the permit application and is ready to receive and consider public comments on air quality issues associated with the proposed facility. [The maximum annual emissions of air pollutants from the proposed facility would be {number of tons per year, air pollutant; number of tons per year, air pollutant; etc.}. This permit would allow the combustion of {list

the amount of each fuel authorized by the permit} at the proposed facility.] The Department's preliminary determination is that the proposed project meets the standards for issuing the air permit in accordance with 9 VAC 5-80-1180 of the Regulations.

The public may examine the application, the preliminary review and analysis of the application, and the preliminary decision by the Department at the DEQ {name of regional office} Regional Office on each business day between the hours of 8:30 a.m. and 4:30 p.m. until 15 days after the public hearing, which is {date 15 days after the public hearing}. Additional information and copies of relevant documents may be obtained from the regional office by contacting {name of regional office contact} at {regional office contact phone number}.

The Department will conduct a public hearing to receive written and oral comments concerning the application. The purpose of the public hearing is to obtain input that may not have been considered during the review process. This hearing will be held on {date} at {time} in {meeting room, building and address}, Virginia. [Persons desiring to make a statement at the hearing are requested to sign up on a sheet to be provided {number of minutes} minutes before the public briefing and are requested to furnish the office two copies of their testimony, along with the originals of any supporting documents or exhibits. Individuals may sign up only for themselves. The amount of time allowed for each statement will be determined by the hearing officer, but is not normally more than three minutes.]

[In addition, the Department will conduct an informal briefing on this application {number of minutes} minutes prior to the public hearing. This briefing will explain the activity for which a permit is sought and the Department staff's rationale for its preliminary determination. Questions will be welcome.]

Written comments may be submitted in lieu of oral comments at the public hearing, or mailed to the DEQ {name of regional office} Regional Office. Written comments must be received by the DEQ {name of regional office} Regional Office no later than the close of business on {date 15 days after public hearing}. Only those comments received within this period will be considered. Comments may also be e-mailed, provided they include the name, address, and phone number of the writer and are timely.

The address and phone number of the DEQ {name of regional office} Regional Office are {address and city of regional office}, Virginia; {phone number of regional office}; the e-mail address is {email address}. All testimony, exhibits, and comments received are public records.

APPENDIX 2: Review of States' Websites for Public Participation Tools and Activities

Arkansas – Provides limited information regarding public participation in their permitting activities. Lists permits that have been drafted, but not finalized. Provides additional information on air permitting history.

California – Web page provides “A Public Participation Guide to Air Quality Decision Making in California”

http://www.arb.ca.gov/ch/public_participation_guide.pdf which provides you with the basic tools and information needed to understand and participate in the air pollution policy, planning, permitting, and regulatory decision-making processes in California. The guide includes:

- A short overview of the government agencies responsible for controlling air pollution;
- Agency contact information;
- Directions on how to resolve air pollution complaints;
- Tips on how to find information about local sources of air pollution; and

Steps you can take to get involved in air quality issues in your community.

Colorado – Provides limited information regarding public participation in their permitting activities.

Connecticut - _Public notice requirements provided online. New source review overview and fact sheet also available.

Florida –Florida provides a site for “Citizen Services” which states: The Office of Citizen Services ensures communication with the general public by acting as a liaison to the district Ombudsman offices. The office exists to help the public with agency issues, foster effective and open communication and promote responsiveness.

Citizen Services and the District Ombudsman Offices

- ▶ Act as liaisons between the public and the department
- ▶ Assist with referrals and answer general questions about the Department and its programs
- ▶ Help callers locate the appropriate office so they aren't transferred from office to office
- ▶ Serve as an *early warning system* to identify trends in the number or type of problems the Department is having with issues or programs and recommend ways to resolve problems before they escalate.

Georgia – Offers some limited guidance around public participation, The document is titled “Rules of Georgia Department of Natural Resources, Chapter 391-1-3, Public Participation in Enforcement of Environmental Statutes.”

Other available resources include- <http://www.ganet.org/dnr/environ/> The website documents a Public Involvement Task Force which was convened in September 2001.

Kansas – Provides information, but difficult to utilize.

Kentucky – Limited guidance on public participation in the permitting process. Provides a link on Public Information Requests <http://www.air.ky.gov/public-records-request.htm> , which assists the public in accessing information.

Indiana –Permit database available on EPA region 5 website.

Louisiana –Includes a document http://www.deq.state.la.us/planning/regs/reg_ques.htm which addressed the following regarding rulemaking:

- What is rulemaking?
- Is there a division within DEQ that coordinates rulemaking for the department?
- What are the major steps in the rulemaking process?
- How long does it take from the time a regulation is proposed until it becomes final?
- Is there a regular publication about regulations that are being proposed?
- How do I get a copy of the proposed regulation?
- Can I review the proposed regulation without buying it?
- Who do I call for information about a proposed regulation?
- When can I offer input or comments on a proposed regulation?
- Any tips on how to comment effectively?
- How do I submit my comments to DEQ?
- How will I know if and how DEQ has addressed my comments?
- Where do I get copies of the final regulations?
- What happens if I feel the rule should be contested later?
- What is the difference between regular rulemaking and emergency rules?
- Can someone from the general public request a rule be established by the agency?

Maine – Limited information on public participation

Massachusetts –No reference to any kind of statement or guidelines regarding public participation was readily apparent. Members of the public can find out about [projects under review](#) and [how to submit comments](#) to the Secretary. Also provides access to information on past projects through an [on-line database](#).

Maryland – provides a link <http://www.mde.state.md.us/CitizensInfoCenter/index.asp> for citizen's information. It covers such items as:

- Citizen Participation –
http://www.mde.state.md.us/CitizensInfoCenter/citizen_participation/index.

[asp](#) Maryland routinely seeks broad stakeholder review and comment on reports it plans to publish, on permit applications, and on specific environmental concerns affecting the State. Through public hearings and meetings, MDE engages a wide range of stakeholders, including environmental and public health advocacy groups, citizen groups, elected officials, agency advisory groups, business leaders, educators, scientists, natural resources users, among many others. MDE makes its reports and publications available to the citizens of Maryland using a variety of outreach tools, which include direct mailings, agency Internet site, public libraries, and organization newsletters, among others.

- Environmental Education
- Pollution Prevention and Cleanup
- Public Health
- Public Information Act (PIA)
- Environmental Emergencies

Michigan – Provides public notices, draft permits, final permits and technical reports online.

Mississippi – Online search tool allows for search of active permits, permitting activity, list of applications received, draft permits and notices.

Montana – Includes draft permits and technical review documents.

New Jersey – Public notices and fact sheets on line. Draft permits available by contacting agency by email.

New York - Information on applicant, proposed project, type of permit, state contact are available online.

North Carolina – Provides good documentation of upcoming hearings and public notices, but offers little in the way of encouragement or guidelines for public participation.

Ohio – The very first item on this web page deals with public participation. <http://www.epa.state.oh.us/pic/facts/pub.html> It is the same link that appears at the top of the “air” web page. It deals with topics such as:

- Public Interest Center
- Public Information Sessions and Public Hearings
- Public Advisory Groups
- Other Opportunities

Oklahoma - Draft permits, final permits, lists of applications and list applicability determinations available online.

Oregon – Air permits not provided online.

Pennsylvania – They have developed a “Public Participation Center” http://www.dep.state.pa.us/dep/subject/Pub_par_Cen.html on their site which has all kinds of good info for the public.

Topic include:

- How Can I Get Involved
- So How Do I Know What Is Going On
- Yes! We Do Want Comments
- How Do I Submit Comments To DEP?
- Does DEP Have To Respond To Comments?
- What Is Regulatory Negotiation?
- Rulemaking Petitions
- What Is The Environmental Quality Board

South Carolina Limited information regarding public participation in their permitting activities

Tennessee – Public Participation section provides limited information on upcoming permits. <http://www.state.tn.us/environment/news/ppo/>

Texas – Links to pending and completed NSR and Title V permits and status of permits.

Utah – Lists permit applications and links to draft permits under public comment.

Vermont – Lists applications for permits.

Washington State – PSD permits listed along with fact sheets. Final and existing permits available. Also includes instructions for commenters.